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EXAMINER

SIKRI, ANISH

ART UNIT	PAPER NUMBER
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2443

NOTIFICATION DATE	DELIVERY MODE
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08/04/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/809,625	KALINICHENKO ET AL.	
	Examiner	Art Unit	
	ANISH SIKRI	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Rejections under 35 U.S.C. 112, 2nd Paragraph, No Disclosure or Insufficient Disclosure of the Structure, Material, or Acts for Performing the Function Recited in a Claim Limitation Invoking 35 U.S.C. 112, Sixth Paragraph

Claims 29-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim limitations use the phrase "means for" or "step for", but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" or "step for" is clearly not modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does not wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for").

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 19-24 are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claim(s) 19-24 recite computer readable medium which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the

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specification is silent. See MPEP 2111.01. When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim **must** be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation “non-transitory” to the computer readable medium as recited in the claim(s) in order to properly render the claim(s) in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term “non-transitory computer readable medium” to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

Claims 25-28 are rejected under 35 USC 101 since the claims are directed towards software *per se*. The system in claims 25-28 is directed towards the use of content validator program. The program does not appear to have any physical embodiments.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-15, 19-23, 25-27, and 29-31 are rejected under 35 U.S.C 103(a) as being unpatentable over Nowitz et al (US Pat 7,308,464) hereafter known as Nowitz, in view of Tran et al (US Pub 2005/0015513) hereafter known as Tran.

2. Consider Claim 1, 19, 25, 29, Nowitz et al disclosed a method for validating wireless content comprising: performing by one or more computers a first web crawling process to retrieve a first set of content files from a web site (Nowitz et al, Col 6 Lines 3-15, Nowitz disclosed on how data is harvested from a website), the first web crawling process including identifying a link in a first content file of the first set (Nowitz et al, Col 6 Lines 3-15), and following the link to a second content file of the first set (Nowitz et al, Col 6 Lines 34-67, Nowitz disclosed that the website can be structured and have different levels or organization), the second content file including content based on the first content file (Nowitz et al, Col 6 Lines 34-67);

3. But Nowitz et al does not explicitly state analyzing the first set of content files for errors by emulating a first category of devices; and the use of generating a log file including navigation history and error information, the navigation history including information pertaining to one or more paths of links traversed and the error information indicative of incorrect display on the first category of wireless devices

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4. Nonetheless, Tran disclosed analyzing the first set of content files for errors by emulating a first category of devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]) the use of generating a log file including navigation history and error information, the navigation history including information pertaining to one or more paths of links traversed and the error information indicative of incorrect display on the first category of wireless devices (Tran, [0022],[0046], [0052], Tran discloses on the data store stores plurality of resource data that is associated with content provided through a channel via a portal server, and the data store can store information from the portal server involving aggregating content/pre-selected content - thus providing navigational history to content, and the system can obtain specific information of the wireless device - such as what display size does the unit have? is it in color?, buffer size of the device? and what markup language is supported etc, thus providing a log of information on what the device can and not do).

5. Both Nowitz-Tran provide features related to wireless/mobile devices. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

6. Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of configuration/content of data being designed on the specification/and capabilities of the device, taught by Tran, in the system of Nowitz for the purpose of efficiently transmitting content data to the variety of

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different types of devices within the system environment. Claim 19 includes a computer readable medium claim having similar limitations as Claim 1; therefore it is rejected under the same rational as Claim 1. Claim 25 includes a system claim having similar limitations as Claim 1; therefore it is rejected under the same rational as Claim 1. Claim 29 includes a apparatus claim having similar limitations as Claim 1; therefore it is rejected under the same rational as Claim 1.

7. Claim 2, 20, 26, Nowitz-Tran discloses the method of claim 1, wherein analyzing the first set of content files for errors comprises: based on information about characteristics of the first category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]), analyzing content in the retrieved first set for error information in the use of the retrieved content at a wireless device in the first category, the content being configured for use on a wireless device in the first category (Tran, [0022],[0046], [0052], Tran discloses on the data store stores plurality of resource data that is associated with content provided through a channel via a portal server, and the data store can store information from the portal server involving aggregating content/pre-selected content - thus providing navigational history to content, and the system can obtain specific information of the wireless device - such as what display size does the unit have? is it in color?, buffer size of the device? and what markup language is supported etc, thus providing a log of information on what

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the device can and not do). Claim 20 includes a computer readable medium claim having similar limitations as Claim 2; therefore it is rejected under the same rational as Claim 2. Claim 26 includes a system claim having similar limitations as Claim 2; therefore it is rejected under the same rational as Claim 2.

8. Claim 3, Nowitz-Tran discloses the method of claim 2, wherein, Nowitz-Tran discloses wherein the analyzing content comprises: identifying a first list of language elements (Nowitz et al, Col 4 Lines 37-40, Nowitz disclosed the use of markup languages) that are supported by the first category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]); and performing a syntax check of the first set of content files using the elements (Nowitz et al, Col 6 Lines 3-15).

9. Claim 4, Nowitz-Tran discloses the method of claim 3, wherein the first set of language elements define a markup language format (Nowitz et al, Col 4 Lines 37-40, Nowitz disclosed the use of markup languages).

10. Claim 5, Nowitz-Tran discloses the method of claim 2, wherein analyzing content comprises: performing a semantic check of the first set of content files (Nowitz et al, Col 6 Lines 3-15) based on the characteristics of the first category of wireless devices (Tran,

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[0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]).

11. Claim 6, Nowitz-Tran discloses method of claim 2, wherein analyzing content comprises: performing a usability score of the first set of content files (Nowitz et al, Col 6 Lines 3-15) based on the characteristics of the first category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]).

12. Claim 7, 8, 21, 22, 30, Nowitz-Tran discloses the method of claim 1, further comprising:

13. performing a second web crawling process by traversing the path of links Nowitz et al, Col 6 Lines 3-15) defined by the navigation history to retrieve a second set of content files; and analyzing the second set of content files for errors by emulating a second category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]). Claim 8 recites a method which has

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substantially similar limitations as Claim 7, therefore it is rejected under the same rational as Claim 7. Claim 21 includes a computer readable medium claim having similar limitations as Claim 7; therefore it is rejected under the same rational as Claim 7. Claim 22 includes a computer readable medium claim having similar limitations as Claim 8; therefore it is rejected under the same rational as Claim 8. Claim 30 includes a apparatus claim having similar limitations as Claim 7; therefore it is rejected under the same rational as Claim 7.

14. Claim 9, Nowitz-Tran discloses the method of claim 8, wherein, Nowitz-Tran discloses wherein the analyzing content comprises: identifying a second list of language elements (Nowitz et al, Col 4 Lines 37-40, Nowitz disclosed the use of markup languages) that are supported by the second category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]); and performing a syntax check of the second set of content files using second set of language elements (Nowitz et al, Col 6 Lines 3-15).

15. Claim 10, Nowitz-Tran discloses the method of claim 9, wherein the second set of language elements define a second markup language format (Nowitz et al, Col 4 Lines 37-40, Nowitz disclosed the use of markup languages).

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16. Claim 11, Nowitz-Tran discloses the method of claim 8, wherein analyzing content comprises: performing a semantic check of the first set of content files (Nowitz et al, Col 6 Lines 3-15) based on the characteristics of the second category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]).

17. Claim 12, Nowitz-Tran discloses method of claim 8, wherein analyzing content comprises: performing a usability score of the first set of content files (Nowitz et al, Col 6 Lines 3-15) based on the characteristics of the second category of wireless devices (Tran, [0038], [0092], Tran discloses on how data is configured to be displayed in devices in variety of contextual environments, and Tran further discloses on how errors are detected when data is being displayed/or configured for the desired device/system in [0092]-[0096]).

18. Consider Claim 13, Nowitz-Tran disclosed the method of claim 1, wherein the navigation history (Tran, [0022],[0046], [0052], Tran discloses on the data store stores plurality of resource data that is associated with content provided through a channel via a portal server, and the data store can store information from the portal server involving aggregating content/pre-selected content - thus providing navigational history to content) identifies an order in which the first set of content files are retrieved (Nowitz et

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al, Col 9 Lines 65-67, Col 10 Lines 1-15, Nowitz et al disclosed on how the agent captures the data from the web).

19. Consider Claim 14, Nowitz-Tran disclosed the method of claim 1, further comprising: receiving a seed URL that defines a starting point for the first web crawling process (Nowitz et al, Col 6 Lines 3-15, Nowitz et al disclosed on how the system coordinates the crawling process).

20. Consider Claim 15, 23, 27, 31, Nowitz-Tran disclosed the method of claim 1, further comprising wherein, Nowitz-Tran disclosed providing a test configuration file including user data; and for each retrieved content file, determining whether the content file has input data fields, and if so, entering the user data in the input data fields and sending the user data to the web site (Tran, [0052]-[0054], Tran discloses on how content file is analyzed involving obtaining information specific to the mobile device – such as display size, whether it supports color, buffer size, markup language, browser supported, type of input used etc). Claim 23 includes a computer readable medium claim having similar limitations as Claim 5; therefore it is rejected under the same rational as Claim 15. Claim 27 includes a system claim having similar limitations as Claim 15; therefore it is rejected under the same rational as Claim 15. Claim 31 includes an apparatus claim having similar limitations as Claim 15; therefore it is rejected under the same rational as Claim 15.

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21. Claims 16-18, 24, 28, 32 is rejected under 35 U.S.C 103(a) as being unpatentable over Nowitz et al (US Pat 7,308,464) hereafter known as Nowitz, in view of Tran et al (US Pub 2005/0015513) hereafter known as Tran, and in further view of Sheth et al (US Pat 6,311,194) hereafter known as Sheth.

22. Consider Claim 16, 24, 28, 32, Nowitz-Tran disclosed the method of claim 15, wherein Hu discloses providing the test configuration file comprises: fields; receiving input from a user entering user data into the one or more input data fields; and generating the test configuration file based on the user input (Tran, [0052]-[0054], Tran discloses on how content file is analyzed involving obtaining information specific to the mobile device – such as display size, whether it supports color, buffer size, markup language, browser supported, type of input used etc).

23. But Nowitz-Tran does not explicitly state displaying a blank form on a screen of a computing device, the blank form having one or more input data.

24. Nonetheless, Sheth disclosed displaying a blank form on a screen of a computing device, the blank form having one or more input data (Sheth, Col 13 Lines 64-67, Col 17 Lines 11-13, Sheth disclosed that the mobile devices can disclose blank forms, as a user may input value/attributes to be inserted in the form)

25. Both Nowitz-Tran-Sheth provide features related to data management on wireless/mobile devices. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

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26. Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the blank form to capture input from the user, taught by Sheth, in the system of Nowitz-Tran, for the purpose of obtaining data to be used for data management purposes. Claim 24 includes a computer readable medium claim having similar limitations as Claim 16; therefore it is rejected under the same rational as Claim 16. Claim 28 includes a system medium claim having similar limitations as Claim 16; therefore it is rejected under the same rational as Claim 16. Claim 32 includes an apparatus claim having similar limitations as Claim 16; therefore it is rejected under the same rational as Claim 16.

27. Consider Claim 17, Nowitz-Tran-Sheth disclosed the method of claim 16, wherein the user data includes one or more variable values that are used to create a dynamic URL (Nowitz et al, Col 6 Lines 3-15, Nowitz disclosed that seeds can represents url or links or content in the system).

28. Consider Claim 18, Nowitz-Tran disclosed the method of Claim 1, wherein the link includes the first content file (Nowitz et al, Col 6 Lines 3-15).

29. But Nowitz-Tran does not explicitly disclose the use of variable values to be incorporated within the file.

30. Nonetheless, Sheth disclosed the use of variable values to be incorporated within the file (Sheth, Col 13 Lines 64-67, Col 17 Lines 11-13, Sheth disclosed that the mobile

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devices can disclose blank forms, as a user may input value/attributes to be inserted in the form, thus allowing variables to be included)

31. Both Nowitz-Tran-Sheth provide features related to data management on wireless/mobile devices. Therefore one of ordinary skill in the art would have been motivated to combine the teachings since both are within the same environment.

32. Therefore, it would have been obvious to a person skilled in the art at the time of the invention was made to incorporate the use of variable values to be used with a file, taught by Sheth, in the system of Nowitz-Tran, for the purpose of obtaining data to be used for data management purposes.

Response to Arguments

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANISH SIKRI whose telephone number is 571-270-1783. The examiner can normally be reached on 8am - 5pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anish Sikri
a.s.

7/22/10

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443